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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/516,653	03/01/00	DOYLE	B P8123

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John N Greaves
Blakely SOKOLOFF Taylor & Zafman LLP
12400 Wilshire Boulevard 7th Floor
Los Angeles CA 90025

EXAMINER

BAUMEISTER, B

ART UNIT	PAPER NUMBER
	2815

DATE MAILED: 07/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/516,653	Applicant(s) Doyle
	Examiner William Baumeister	Art Unit 2815
		
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
Period for Reply <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>1</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 		
Status <p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Jul 31, 2000</u></p> <p>2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>		
Disposition of Claims <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1-38</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input type="checkbox"/> Claim(s) _____ is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input checked="" type="checkbox"/> Claims <u>1-38</u> are subject to restriction and/or election requirement.</p>		
Application Papers <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are objected to by the Examiner.</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
Priority under 35 U.S.C. § 119 <p>13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).</p> <p>a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). <p>*See the attached detailed Office action for a list of the certified copies not received.</p>		
<p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p>		
Attachment(s) <p>15) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____</p> <p>18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>20) <input type="checkbox"/> Other: _____</p>		

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 29-38, drawn to various quantum wire structures, classified in class 257, subclass 1+.
 - IA. Claim 30, drawn to a quantum wire structure wherein the monocrystalline Si channels are formed on a dielectric layer, classified in class 257, subclass 347.
 - IB. Claim 31, drawn to a quantum wire structure wherein the monocrystalline Si channels have self-aligned doping regions in the Si beneath the trench, classified in class 257, subclass 345.
 - IC. Claims 34 and 38, drawn to a quantum wire structure wherein the trench is filled with a particular material, classified in class 257, subclass 20:
 - IC1. Claim 34, drawn to a quantum wire structure wherein the trench is filled with the conductive gate layer.
 - IC2. Claim 38, drawn to a quantum wire structure wherein the trench is filled with a dielectric material.
 - II. Claims 1-28, drawn to methods of making semiconductor devices, classified in class 438, subclass 962.

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2. The inventions are distinct, each from the other because of the following reasons:

a. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, unpatentability of the Group I invention would not necessarily imply unpatentability of the Group II invention, since the device of the group I invention could be made by processes materially different from those of the Group II invention. For example, as an alternative to claim 1 wherein the second nitride spacer remains over the quantum wire, a method as depicted in FIGs 3 can be employed wherein the second nitride spacer is removed and then the openings thereunder are removed to form the trenches.

b. Inventions IA-IC are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IA has separate utility from invention IB such as in a quantum wire device not having self-aligned doping regions. Inventions IA and IB each have separate utility from invention IC since either of the mutually exclusive embodiments of inventions IC1 and IC2 could be used in conjunction with either invention IA or IB. See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above, the inventions have acquired a separate status in the art because of their recognized divergent subject matter as shown

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by their different classification, the search required for any one group is not required for any of the other groups, and separate examination would be required, restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Further if Applicant elects invention IC, Applicant is further required under 35 U.S.C. 121 to elect a single disclosed patentably distinct species of IC1 and IC2, set forth above, for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least claim 29 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

INFORMATION ON HOW TO CONTACT THE USPTO

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, **B. William Baumeister**, at (703) 306-9165. The examiner can normally be reached Monday through Friday, 8:30 a.m. to 5:00 p.m. If the Examiner is not available, the Examiner's supervisor, Mr. Eddie Lee, can be reached at (703) 308-1690. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

B. William Baumeister

July 16, 2001



EDDIE LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800